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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,103	01/26/2001	Beatriz M. Carreno	GNN-009CP	7957

7590

07/15/2002

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EXAMINER

ROARK, JESSICA H

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 07/15/2002

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/772,103

Applicant(s)

CARRENO ET AL.

Examiner

Jessica H. Roark

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The Examiner of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Jessica Roark, Art Unit 1644, Technology 1600.

2. Claims 1-23 are pending.

3. Sequence compliance: The instant application appears to be in sequence compliance for patent applications containing nucleotide sequence and/or amino acid sequence disclosures.

4. Applicant's election with traverse of Group I (claims 1-15) in Paper No. 11 is acknowledged. The traversal is on the grounds that a serious search burden has not been established. This is not found persuasive because search burden was established based upon the separate classification of Group I from Groups II/III, and the divergent subject matter requiring non-co-extensive searches. Thus contrary to Applicant's assertions, the requirements set forth at MPEP 803 were met, see in particular MPEP 808.02.

The requirement is still deemed proper and is therefore made FINAL.

Claims 16-23 (non-elected groups II and III) are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b) as being drawn to nonelected inventions.

Claims 1-15 are under consideration in the instant application.

5. *Upon further consideration and review, an additional election of species is required as set forth below.*

Species Election

6. This application contains claims directed to the following patentably distinct species of the claimed invention:

Applicant is required to elect a *particular* species of toxic moiety from among those that are either a carbohydrate (e.g., calicheamicin) or a bacterial product (e.g., either ricin A chain or saporin).

These species are distinct because they differ in structure and physiochemical properties; thus each species represents patentably distinct subject matter.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

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7. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Formalities

9. The formal drawings submitted 7/16/01 have been approved by the Draftsman.

However, Applicant is reminded that the Brief Description of the Drawings on pages 5-6 must be amended to correspond to the designations provided in the accepted formal drawings. In particular, Figures 2, 3, 4 and 8 should be amended to indicate that there are multiple figure components (e.g., Figure 2 should be described as Figures 2A-2C). Also, Figure 6 is now Figure 6A-6D, rather than Figure 6A-6C.

10. The use of trademarks has been noted in this application at least on page 60 at line 14. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Also, Applicant is reminded that "BALB/c" is the appropriate designation of this mouse strain (page 76 at line 31).

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11. The disclosure is objected to because it contains embedded hyperlinks at least on page 21 at lines 3 and 7. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Applicant is requested to review the application for additional embedded hyperlinks and/or other forms of browser-executable code and delete them. Embedded hyperlinks and/or other form of browser-executable code are impermissible in the text of the application as they represent an improper incorporation by reference. See MPEP § 608.01 and 608.01(p).

12. The disclosure is objected to because of the following informalities: "Blanks" are present in the specification on pages 4, 5 and 28 for ATCC and hybridoma designations of the CTLA4 antibodies. Appropriate correction is required.

13. It is noted that "Blanks" are present in claim 12 for ATCC accession numbers and hybridoma identification.

Applicant is reminded to provide the missing information with respect to claim 12, as well as any need information need to fulfill the requirements set forth 37 CFR 1.801-1.809, including the provision of assurances regarding availability of any deposit.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica H. Roark, whose telephone number is (703) 605-1209. The examiner can normally be reached Monday to Friday, 8:00 to 4:30. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached at (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Jessica Roark, Ph.D.
Patent Examiner
Technology Center 1600
June 15, 2002

Phillip Gambel
PHILLIP GAMBEL, PH.D
PRIMARY EXAMINER
REU GAMBEL 600
7/15/02